



The Secretary
The Public Contracts Review Board
Notre Dame Ravelin
Floriana
info.pcrb@gov.mt



6th December 2023

Dear Sir,

RE: 105 Cft CT4001/2023 - Tender for the Leasing of Premises to House In-Patient Psychiatric Services Facility (IPSF) to the Central Procurement and Supplies Unit, obo Mental Health Services

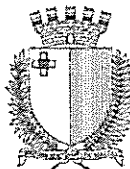
Reply of the Department of Contracts (the DoC) to the application dated 16th November 2023 submitted by Messrs. Caring First Limited (the applicant) for the disclosure of particular information.

Whereas

1. On the 27th of April 2023, the Contracting Authority has published a call for tenders for the leasing of premises to house inpatient psychiatric services.
2. In terms of a letter dated 29th September 2023 communicated to the applicant, it had informed it that its tender did not satisfy the administrative and technical criteria and that the recommendation for award had been made in favour of CareMalta Group Ltd.
3. The applicant, having been aggrieved by the decision of the Contracting Authority, opted to file a reasoned letter of objection dated 6th October 2023.
4. The Contracting Authority, the DoC and the recommended tenderer all replied to this reasoned letter of objection on the 16th October 2023.
5. In order to obtain information, the appellant communicated a request to obtain information communicated a request dated 16th November 2023
6. In the submissions of both the recommended tenderer and the Department of Contracts it is emphasized that no decision regarding the grievances contained in the reasoned letter of objection dated 6th October 2023 has not been issued.
7. In this respect, whilst it is being stated that all grievances are to be provided in reasoned letters of objections within ten days from notification, the filing of requests beyond the ten-day period can only be allowed with the permission of the Public Contracts Review Board.
8. In virtue of an email dated 1st December 2023, the Public Contracts Review Board granted the respective entities a ten-day period within which a reply to the application can be presented.

Submissions

9. The application in the call for tenders is being exercised for the Public Contracts Review Board to order and authorise the disclosure information



10. The DoC disagrees that the appellant is entitled to disclose information in order that the appellant is allowed to scrutinize the decision to award to the recommended tenderer, since this function is inherently vested in the Tender Evaluation Committee.
11. The DoC also disagrees with the statement that the information will eventually become information available in the public domain, it should necessarily be provided by the Contracting Authority and the Department of Contracts. Where information may be accessed from other competent authorities such as Identity Malta and the Planning Authority, the appellant may obtain this information therefrom.
12. If the information has not yet been publicised on the website of other competent authorities, the Contracting Authority and the Department of Contracts may not be requested by the Public Contracts Review Board to disclose the information since there may be reasons for the information not to have been publicised in terms of any applicable legislation, in particular the Development Planning Act, Cap 552 of the Laws of Malta.
13. Without prejudice, the appellant may have summoned witnesses from the competent authorities to provide any non-confidential information being requested, since article 12 of Section 4 of the call for tenders document entitled General rules Governing Tenders stipulates that prior to the disclosure of information to third parties, the tenderer would have to be consulted.

In the view of the aforesaid, the DoC requests that this Honourable Public Contracts Review Board is to decide upon the request of the appellant for disclosure of information in a manner that respects and safeguards the principles of integrity of tender offers and that, if disclosure is to be authorised, the information is to be accessible only to the appellant, the Contracting Authority, and the Department of Contracts.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'M. Debono', written over a horizontal line.

Av. Mark Anthony Debono
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Notre Dame Ravelin
Floriana
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